

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

IN RE:

BAYLIS E. HARRISS, JR.

(Debtor)

*

*

*

*

*

Case No. 07-50978K

Chapter 7 Proceeding

APPLICATION FOR REFUND OF OVERPAYMENT FROM UNCLAIMED FUNDS
(WITH 20-DAY LANGUAGE)

THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO YOUR INTERESTS.

IF NO TIMELY RESPONSE IS FILED WITHIN TWENTY (20) DAYS FROM THE DATE OF SERVICE, NO HEARING WILL BE HELD AND THE RELIEF REQUESTED IN THE MOTION WILL BE GRANTED.

A TIMELY FILED RESPONSE IS NECESSARY FOR A HEARING TO BE HELD.

COMES NOW the Trustee, Johnny W. Thomas, to make Application for an Order Authorizing Refund of Overpayment From Unclaimed Funds now on deposit in the Treasury of the United States for the benefit of the Debtor, Baylis Harriss. The Debtor, in the above captioned bankruptcy case has not received payment of these funds which are due and owing to the Trustee. The Trustee, Johnny W. Thomas, further shows as follows:

1. On December 16, 2008, this Court entered an Order of Distribution Approving Trustee's Report of Distribution, authorizing the distribution of funds. After payment of the secured and unsecured claims plus interest, the balance of funds was to be distributed to the Debtor, Baylis Harriss.

2. The Distribution was calculated to pay interest to the secured creditors, but was

H:Application for Refund of Overpayment from Unclaimed Funds Harriss

not calculated to pay interest to the unsecured creditors. The Trustee software was apparently incapable of making the separate calculations and should have been made manually.

3. The unsecured creditors should have been paid an additional \$518.59, before a distribution was made to the Debtor, Baylis Harriss, and the Trustee requests a refund of this overpayment from the unclaimed funds of Baylis Harriss, Debtor. The balance due Baylis Harris was \$42,806.77 and not \$43,325.36. (See attached)

4. The overpayment was discovered in preparation of the Trustee's Final Report (TDR) The Trustee is not aware of any reason the Debtor has refused to cash the check originally forwarded, nor claim the funds held for his benefit. In any case, the Debtor is not due the \$518.59 in overpayment and such funds should be returned to the estate for distribution to the unsecured creditors.

WHEREFORE, PREMISES CONSIDERED, Trustee prays the Court should grant this Application for Refund of Overpayment of Unclaimed funds, in the amount of \$518.59.

SIGNED on this 30th day of September, 2009.

/S/
JOHNNY W. THOMAS,
Chapter 7 Trustee
TBN# 19856500
1153 E. Commerce
San Antonio, TX 78205
(210) 226-5888 Fax: (210) 226-6085

CERTIFICATE OF SERVICE

I certify that a copy of the Application To For Refund of Overpayment From Unclaimed Funds was mailed to the below named persons, by first class mail on this 30th day of September, 2009:

Baylis E. Harriss, Jr.
P. O. box 110
Seguin, Texas 78156
Debtor

United States Attorney
Western District of Texas
601 N.W. Loop 410, Suite 600
San Antonio, Texas 78216

Douglas G. Deffenbaugh
P. O. Box 700167
San Antonio, Texas 78270-0167

Debtor Counsel

Attorney General of the
United States
Main Justice Building, Room 511
10th and Constitution Ave. N.W.
Washington, D.C. 20530

United States Trustee
615 E. Houston
P. O. Box 1539
San Antonio, TX 78295-1539

SEE THE ATTACHED MATRIX FOR A LIST OF ALL INTERESTED PARTIES NOTICED.

 / S /
JOHNNY W. THOMAS